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**TO:** Electoral Area Services Committee      **DATE:** June 11, 2019

**FROM:** Stephen Boogaards  
Planner      **FILE:** PL2019-037

**SUBJECT:** **Zoning Amendment Application No. PL2019-037**  
**760, 770, 772 and 780 Horne Lake Road – Electoral Area H**  
**Amendment Bylaw 500.427, 2019 – Introduction**  
**Lot 1, Block 347, Newcastle and Alberni Districts, Plan 33670 Except Part in**  
**Plan VIP61037**

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## **RECOMMENDATIONS**

1. That the Board receive the Summary of the Public Information Meeting held on April 30, 2019.
2. That the conditions set out in Attachment 2 of the staff report be completed prior to Amendment Bylaw No. 500.427 being considered for adoption.
3. That “Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.427, 2019”, be introduced and read two times.
4. That the Public Hearing on “Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.427, 2019”, be delegated to Director McLean.

## **SUMMARY**

The applicant proposes to amend the zoning for the subject property from Rural 1 (RU1), Subdivision District ‘B’ to RU1 zone, Subdivision District ‘CC’, to allow a four lot subdivision. A Public Information Meeting was held on April 30, 2019. The requirements set out in the Conditions of Approval are to be completed by the applicant prior to the Board’s consideration of the Bylaw for adoption (see Attachment 2). It is recommended that Amendment Bylaw No. 500.427, 2019 be granted first and second reading.

## **BACKGROUND**

The Regional District of Nanaimo (RDN) has received an application from Fern Road Consulting Ltd., on behalf of Clifford and April Gilchrist, Gordon Price and J&B Enterprises Ltd., to rezone the subject property from RU1, Subdivision District ‘B’ to RU1 zone, Subdivision District ‘CC’, to allow a four lot subdivision. The subject property is approximately 17.55 hectares in area and contains six dwelling units and accessory buildings (see Attachment 3 – Plan of Subdivision). The property is adjacent to Horne Lake Road to the east, the Agricultural Land Reserve (ALR) to the north and west, and 2.0 hectare Rural zoned parcels to the south (see Attachment 1 –

Subject Property Map). The northeastern portion of the property is also affected by a BC hydro statutory right-of-way.

### ***Proposed Development***

The applicant proposes to rezone the subject property from RU1, Subdivision District 'B' to RU1 zone, Subdivision District 'CC', to allow a four lot subdivision with a minimum parcel size of four hectares (see Attachment 5 – Proposed Plan of Subdivision). Three of the properties currently contain two dwellings and accessory buildings, many of which are proposed to be removed. Each lot will be serviced by a well and onsite sewage disposal.

The applicant proposes a 12.5 metre wide road dedication along the southern boundary of the subdivision to comply with Ministry of Transportation and Infrastructure access requirements. (see Attachment 3 – Plan of Subdivision). Proposed Lot 4 will need a relaxation of road frontage requirements as required in the *Local Government Act*.

### ***Official Community Plan Implications***

The subject property is designated Rural pursuant to the “Regional District of Nanaimo Electoral Area ‘H’ Official Community Plan Bylaw No. 1335, 2017” (OCP). The Rural designation supports a minimum parcel size of 4.0 hectares for the subdivision of land. Given the 4.0 hectare minimum parcel size, the density of the RU1 zone will also not exceed maximum permitted density in the OCP, being one dwelling unit per 2.0 hectares to a maximum of two per parcel. Therefore, the proposed amendment is consistent with the OCP Rural designation policies.

The OCP also includes direction that zoning amendments should generally be requested to include some public amenity as part of the completed project, in recognition of the increased value conferred on the land in the course of rezoning. The applicant is proposing \$4,000 towards Phase 2 of the Dunsmuir Community Park, which is a project currently underway and approved by the RDN Board. The provision of this amenity contribution is noted as a Condition of Approval in Attachment 2.

### ***Land Use Implications***

The existing RU1 zoning of the subject property allows agriculture, aquaculture, home-based business, produce stand, silviculture, secondary suite, and residential use. Currently six dwelling units and accessory buildings are located on the subject property, and are serviced by well and septic field. While many of the dwellings are proposed to be removed, the proposed zoning amendment would permit two dwellings per lot as the parcel does not exceed OCP policy for one dwelling unit per 2.0 hectares.

The applicant has submitted a proposed plan of subdivision to show the potential shape and dimensions of the proposed lots (see Attachment 3 – Proposed Plan of Subdivision). The configuration of proposed Lot 4 will require a relaxation of the 10% road frontage requirements of Section 512 of the *Local Government Act*, as only 5.6% of the parcel perimeter will be fronting on the proposed dedicated road.

The property is adjacent to the ALR to the north and west of the subject property. Due to the depth of the proposed parcels and size of the property, the proposed subdivision would be exempt from the Farmland Protection Development Permit Area and conflicts between agricultural and adjacent residential uses are not expected. However, a nuisance easement is

recommended to advise potential property owners or buyers of the presence of the ALR and the potential for noise and odours related to normal farming practices.

### ***Environmental Implications***

As the proposed zoning amendment is required to demonstrate compliance with “Board Policy B1.21 Hydrological (groundwater) assessment requirements for rezoning un-serviced lands and for development permits”, the applicant has provided a Preliminary Hydrological Assessment prepared by Lewkowich Engineering Associates Ltd., dated January 3, 2019. The report concludes that the four lot subdivision will have a negligible impact on the drinking water aquifer and that groundwater wells will be able to meet the required zoning volumes of 3.5 m<sup>3</sup> / day. The report also concludes that the subdivision impacts to groundwater quality will be very low, as properly designed septic systems will need to be constructed to Island Health (VIHA) standards. The report recommends that all septic components are at least 30.0 metres from a groundwater well to limit potential contamination. As a condition of approval, it is recommended that the applicant be required to register a Section 219 covenant with the Preliminary Hydrological Assessment and conditions to ensure the wells are constructed and tested at subdivision stage, consistent with Board Policy B1.21.

Due to the presence of a wetland on the property, the applicant has also submitted an Environmental Assessment by Toth and Associates Environmental Services, dated February 5, 2019. The wetland is situated in the southwest corner of the property, and continues onto the neighbouring property. The report identifies that the wetland did not have any surface connection with downstream watercourses and that the *Riparian Area Regulations* would not apply. However, the report does identify that the wetland could provide amphibian breeding habitat and recommended a naturally vegetated buffer within 15.0 metres of the natural boundary of the wetland. As a condition of approval, it is recommended that the applicant be required to register a Section 219 covenant with the Environmental Assessment and conditions for the protection of the 15.0 metre natural boundary of the wetland.

### ***Intergovernmental Implications***

The application was referred to the Ministry of Transportation and Infrastructure (MOTI), who indicated that they have no objections to the rezoning application provided that the comments are not construed as subdivision approval and no drainage is directed to MOTI drainage systems. MOTI and the Provincial Approving Officer as part of a formal subdivision application will also consider road construction, stormwater management and geotechnical implications.

The application was referred to VIHA who identified that the septic disposal for the properties must be in compliance with the Sewerage System Regulations and VIHA subdivision standards. VIHA recommends any shared wells must be in compliance with the *Drinking Water Protection Regulation*. Therefore at the time of subdivision, as part of requirements for Policy B1.21, the RDN would require confirmation that any drinking water system for lots containing two dwelling units have an Operating Permit from VIHA.

Given the groundwater protection policies of the OCP, the zoning amendment application was also referred to the Qualicum Bay – Horne Lake Waterworks District. The property is located within the well capture zone for the community water supply. With respect to permitted uses on the property, the improvement district identified concerns with agriculture due to pesticides and fertilizers, and residential uses due to septic systems and abandoned wells. To address concerns with rural residential use, as a condition of approval, the Section 219 covenant will

ensure that any existing wells on the property will be brought into compliance with the *Drinking Water Protection Regulations*, which may include upgrading well heads or decommissioning abandoned wells. Further, septic systems must be designed according to VIHA standards which would mitigate risk by proper design and maintenance. With respect to agricultural use, the existing zoning definition of agriculture already excludes intensive forms of farming, including fur farm, mushroom farm, intensive swine operation, feedlot and cannabis production.

### ***Public Consultation Implications***

A Public Information Meeting (PIM) was held on April 30, 2019. Four members of the public attended and no written submissions were received prior to the PIM (see Attachment 4 – Summary Report of the Public Information Meeting). The public in attendance identified a concern related to the impact of stormwater runoff from the proposed road. With respect to this concern, MOTI has been contacted and have identified that drainage to the road and adjacent properties will be addressed through the formal subdivision application process.

In accordance with Section 464 of the *Local Government Act*, should the Board grant first and second reading to the amendment bylaw, a Public Hearing is required to be held or waived prior to the Board's consideration of third reading. The purpose of the Public Hearing is to provide an opportunity for those who believe that their interest in property is affected by the proposed bylaw to be heard by the Regional Board. In addition, the Regional Board may delegate the Public Hearing by resolution in accordance with Section 469 of the *Local Government Act*. Therefore, it is recommended, that should the Board grant first and second reading to the proposed amendment bylaw, that a Public Hearing be held in accordance with Section 464 of *The Local Government Act* and that the Public Hearing be delegated to Director McLean.

### **ALTERNATIVES**

1. To proceed with Zoning Amendment Application No. PL2019-037, consider first and second reading of the Amendment Bylaw and proceed to Public Hearing.
2. To not proceed with the Amendment Bylaw readings and Public Hearing.

### **FINANCIAL IMPLICATIONS**

The proposed development has been reviewed and has no implications related to the Board 2019 – 2023 Financial Plan.

### **STRATEGIC PLAN IMPLICATIONS**

The proposed development has no implications for the 2016 – 2020 Board Strategic Plan.



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Stephen Boogaards  
[sboogaards@rdn.bc.ca](mailto:sboogaards@rdn.bc.ca)  
May 10, 2019

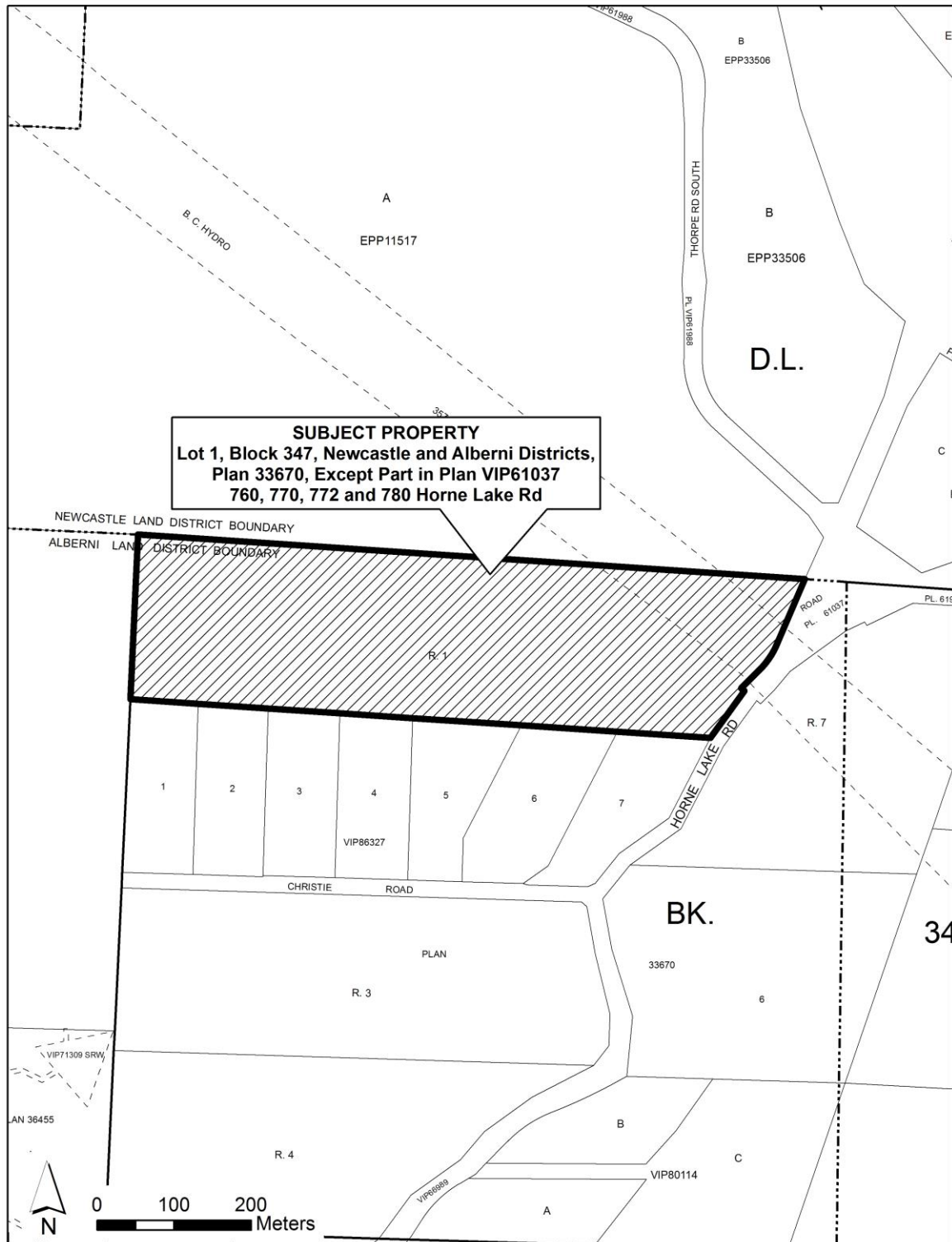
Reviewed by:

- P. Thompson, Manager, Current Planning
- G. Garbutt, General Manager, Strategic & Community Development

Attachments

1. Subject Property Map
2. Conditions of Approval
3. Proposed Plan of Subdivision
4. Summary Report of the Public Information Meeting
5. Proposed Amendment Bylaw No. 500.427, 2019

## Attachment 1 Subject Property Map



## **Attachment 2**

### **Conditions of Approval**

The following is required prior to the “Regional District of Nanaimo Land Use and Subdivision Amendment Bylaw No. 500.427, 2019” being considered for adoption:

#### Conditions of Approval

1. The applicant shall provide a voluntary community amenity contribution in the amount of \$4,000 for phase 2 of the Dunsmuir Community Park.
2. The applicant is required to register, at the applicant’s expense, a Section 219 Covenant on the property title with the Environmental Assessment by Toth and Associates Environmental Services, dated February 5, 2019, restricting development within the wetland area.
3. The applicant shall register, at the applicant’s expense, a Section 219 Covenant on the property title requiring the development of the land occur in a manner consistent with the Preliminary Hydrological Assessment report prepared by Lewkowich Engineering Associates Ltd., dated January 3, 2019.
4. The applicant is required to register, at the applicant’s expense, a Section 219 Covenant on the property title stating that the wells be constructed and tested, and a report from a Professional Engineer (registered in BC) be submitted to the Regional District of Nanaimo prior to final approval of subdivision in accordance with “Board Policy B1.21 – Groundwater – Application requirements for rezoning of un-serviced lands”. No subdivision shall occur until such time that a report from a Professional Engineer (registered in BC) has been completed to the satisfaction of the Regional District of Nanaimo confirming that the wells have been pump tested and certified including well head protection, and that the water meets *Canadian Drinking Water Standards*.
5. The applicant shall register a nuisance easement on the subject property to advise property owners of the presence of the Agricultural Land Reserve and the potential for odour, noise, dust or other disturbance resulting from farm operations.

**PROPOSED SUBDIVISION PLAN OF  
LOT 1, BLOCK 347, NEWCASTLE AND ALBERNI DISTRICTS,  
PLAN 33670, EXCEPT PART IN PLAN VP61032.**

**SCALE 1:2000**

**LEGEND**  
ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF.  
ALL DISTANCES ALONG CURVES ARE ARC DISTANCES.  
ALL DISTANCES ALONG STRAIGHT LINES ARE STRAIGHT LINE DISTANCES.  
DL DENOTES DISTRICT LOT  
BL DENOTES BLOCK  
REM DENOTES REMAINDER  
NA DENOTES NEIGHBOUR  
SPP DENOTES POWER POLE  
--- DENOTES REMOVED

**REVISION**

No.	DATE	REVISION
1	2019/07/10	SWITCH ROAD DEDICATION TO SOUTH BOUNDARY
2	2019/07/10	INCREASE AREA OF LOTS 2, 3 & 4, AND WETLAND AREA & SETBACK

**SIMS ASSOCIATES LTD.**  
LAND SURVEYING LTD.  
200-752-9121  
QUALCOMM BEACH, B.C. V1K 1S4  
VICTORIA, B.C. V8N 2G6  
FILE NUMBER: 18-227-S  
DRAWING NUMBER: 18-227 PLDING  
DATE: 2019/07/10



**Attachment 4**  
**Summary of the Public Information Meeting**  
**Held at Lighthouse Community Hall**  
**240 Lions Way**  
**April 30, 2019 at 6:30 pm**  
**RDN Application PL2019-037**

*Note: This summary of the meeting is not a verbatim recording of the proceedings, but is intended to summarize the comments and questions of those in attendance at the Public Information Meeting.*

There were four members of the public in attendance at this meeting.

**Present for the Regional District of Nanaimo:**

Director McLean, Electoral Area 'H' (the Chair)  
Greg Keller, Senior Planner  
Stephen Boogaards, Planner

**Present for the Applicant:**

Helen Sims, Fern Road Consulting Ltd.  
Laura Lamb, Fern Road Consulting Ltd.  
Chris Hudec, Lewkowich Engineering Associates Ltd.

**The Chair** opened the meeting at 6:30 pm, outlined the evening's agenda, and introduced the RDN staff and the applicants in attendance. The Chair then stated the purpose of the Public Information Meeting and asked RDN staff to provide background information concerning the development application.

The Planner provided a brief summary of the proposed zoning amendment application, supporting documents provided by the applicant, and the application process.

**The Chair** invited the applicant to give a presentation of the development proposal.

**Helen Sims** presented an overview of the proposal and professional reports submitted.

**Chris Hudec** provided an overview of the hydrological assessment and identified the development would have a negligible impact on the aquifer.

**Gerry Desmarais**, 3005 Christie Road, identified he was concerned with the proposed road and direction of rainwater. He asked if the drainage will affect wetland and adjacent properties.

The Planner explained that at the subdivision stage, after the rezoning, the Ministry of Transportation and Infrastructure would consider road construction and drainage. He will confirm with the Ministry, as the RDN may request more information from the applicant if a concern is not addressed.

**Cliff Gilchrist**, 760 Horne Lake Road, stated he lives on the property and explained concern with standing water on the existing driveway. He noted he was being asked to move off of the property.

**Ed Hughes**, Thorpe Road, identified that he did not receive a notice. He also identified that water would flow onto his property.

**Chris Hudec** spoke to road construction standards and soils in relation to drainage.

**Ed Hughes**, Thorpe Road, identified he had no objections but the soils contain an impermeable clay base.

**Chris Hudec** explained his response was general, though the water will drain to the north and the wetland is in a low spot.

**Gerry Desmarais**, 3005 Christie Road, asked why there was a wetland if there is no overland flow. He believes the wetland will expand due to drainage.

**Chris Hudec** explained that the paved road will have water running to a ditch and will not significantly change water runoff compared with the current driveway. Culverts can also be included to ensure the road does not become a dam.

**Helen Sims** explained that the Ministry of Transportation and Infrastructure will review road construction standards and will ensure that drainage will not impact neighbouring properties. It is too early in the process for detailed road design plans.

**Gerry Desmarais**, 3005 Christie Road, stated he wanted to be on record for his concerns with the impact of water flow.

**The Chair** asked if there were any further questions or comments.

Being none, the Chair thanked those in attendance and announced that the Public Information Meeting was closed.

The meeting was concluded at 6:57 pm.



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Stephen Boogaards  
Recording Secretary

**Attachment 5**

**Proposed Amendment Bylaw No. 500.427, 2019**